IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 16394 of 2003
with
SPECIAL CIVIL APPLICATION Nos 11618, 11619, 11620, 12030, 16985 to 17031, 17062, 16398, 16400, 16402, 16404, 16407, 16413 and 16418 of 2003 (60 matters)

For Approval and Signature:

HON'BLE MR.JUSTICE M.S.SHAH
and
HON'BLE MR.JUSTICE A.M.KAPADIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

PIPOADRA SYNTHETICS PVT. LTD.

Versus

UNION OF INDIA

Appearance:
MR MIHIR H JOSHI & MR PARESH M DAVE for Petitioners
MR DN PATEL for Respondents

CORAM : HON'BLE MR.JUSTICE M.S.SHAH
and
HON'BLE MR.JUSTICE A.M.KAPADIA
Date of decision: 13/01/2004

COMMON ORAL JUDGEMENT

(Per : HON'BLE MR.JUSTICE M.S.SHAH)

Heard Mr Mihir H Joshi and Mr Paresh M Dave, learned counsel for the petitioners and Mr DN Patel, learned Senior Standing Counsel for the Central Government.

2. All these petitions challenge the judgments and orders of the Customs, Excise & Gold (Control) Appellate Tribunal ("the Tribunal" for short) in appeals under Section 35B of the Central Excise Act, 1944.

3. We are informed that the controversy arising in these petitions has already been concluded by the decision dated 27.12.2002 of this Court in Dhanlaxmi Texturisers & Anr. vs. Union of India & Ors., reported in 2003(55) RLT 873 (Guj.) wherein this Court observed and directed as under :-

> "Looking to the fact that the earlier view expressed by the Tribunal in the case of Shree Cables & Conductors Ltd. vs. Commissioner has been now confirmed by the Hon'ble Supreme Court by dismissing an appeal filed against the said order, Mr DN Patel, learned Senior Standing Counsel for the Central Government had to reluctantly agree to the fact that the impugned order passed by the Tribunal cannot be justified.
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> Looking to the above referred undisputed fact, in our opinion, the Tribunal was in error in taking a different view than the one which it had taken in the case of Watts Electronics Pvt. Ltd. vs. Collector of Central Excise, Kochi and in the case of Shree Cables & Conductors Ltd. vs. Commission. Possibly the Tribunal was not aware of the fact that the view expressed by it in the case of Shree Cables & Conductors ETC had been confirmed by the Hon'ble Supreme Court. Even if the said fact was not known to the Tribunal, in our opinion, the Tribunal should not have changed its view without assigning any reason or without referring to its earlier view expressed in the case of Watts Electronics Pvt. Ltd. vs. Collector of Central Excise and Shree Cables & Conductors Ltd. vs. Commissioner.
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> In view of the above referred undisputed facts, we quash and set aside the impugned order passed by the Tribunal so that the order passed by the Commissioner of Appeals (Surat) can

operate."

3. Mr DN Patel, learned Senior Standing Counsel for the Central Government is not in a position to dispute that the aforesaid decision will govern the present group of petitions also.

4. Accordingly, we quash and set aside the impugned orders passed by the Tribunal and it is held that the petitioners were entitled to the benefit of notification No. 1/93 by computing the value of clearance from the date on which the petitioners opted for this exemption in the year 1994-95.

5. Rule is made absolute in each petition to the aforesaid extent with no order as to costs.

(M.S. Shah, J.)

(A.M. Kapadia, J.)

sundar/-